

SRI LANKA

DEAR MR. PRESIDENT,

WILL YOU ANSWER?

**SOME QUESTIONS RELATING TO
DISCRIMINATION AND VIOLENCE
AGAINST TAMILS AND VIOLATIONS
OF HUMAN RIGHTS IN SRI LANKA**

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“AS A MINIMUM, THE TAMILS ARE ENTITLED TO PROTECTION OF THEIR PHYSICAL SECURITY WITHIN SRI LANKA. THIS PROTECTION CAN NO LONGER BE TAKEN FOR GRANTED....THE TENSION BETWEEN THE ETHNIC COMMUNITIES CREATES AN EXTREMELY DANGEROUS SITUATION IN SRI LANKA WHICH MAY ESCALATE INTO MAJOR VIOLENCE IN THE ISLAND AND NEGATE ALL EFFORTS TO DEVELOP THE ISLAND ECONOMICALLY“.

“THE LONG-TERM SOLUTION TO THE ETHNIC CONFLICT IN SRI LANKA IN THE INTERESTS OF THE ENTIRE POPULATION CAN ONLY BE ACHIEVED ON THE BASIS OR RESPECT FOR THE RULE OF LAW AND RELEVANT HUMAN RIGHTS STANDARDS”.

- Report of the International Commission of Jurists 1981

SRI LANKA: DEAR MR. PRESIDENT, WILL YOU ANSWER?

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CAUSE OF 'TERRORISM'

"After this recital of some of the grievances of the Tamils, I cannot but sympathise with the complaint made by Mr. Amirthalingam, that although the Tamils had tried hard to get justice for their community, they found that pacts were made only to be broken....The true cause to my mind was political rivalry. When the S.L.F.P. Prime Minister made a pact, the U.N.P. defeated any attempt to fulfil the promises it contained. When the U.N.P. Prime Minister later made a pact, the S.L.F.P. adopted the same obstructive attitude....I agree with Fr. Caspersz that Tamil should have been recognised before 1978 as a national or even as an official language. He said that it was unfortunate that the two major Sinhalese political parties had both fallen victims to that sort of communalism, which did not allow the Tamils the same right in their language as the Sinhalese have.

- Report of the President Commission (Mr. M.C. Sansoni, Retired Supreme Court Judge) appointed inquire into the August 1977 violence against Tamils, July 1980.

"During the S.W.R.D. Bandaranaike Administration not only was the Official Language Act of 1956 enacted and implemented but all manner of discriminations were directed at the Tamil people. Many public servants were deprived of their promotions and many more were discriminated against in the process of recruitment. In the Sirima Bandaranaike Administration which followed, such discrimination was even more pronounced. This resulted in the Tamil community suffering from an acute sense of insecurity and made to feel unwanted in the land of their birth.

The human reaction to the naked discrimination directed against the Tamil people was indeed tragic from the viewpoint of Sri Lanka. For generations the Tamil community had produced excellent professionals in many fields. Many now sought greener pastures abroad and those who left for countries in the West never came back."

- 'THE AGONY OF SRI LANKA' by Mr. T.D.S.A. Dissanayke (a senior official in the Sri Lankan Foreign Ministry), 1983.

"Policies concerning the use of Sinhala, *inter alia*, have seriously lessened the opportunities of Tamils for government employment. The government should adopt a system for recruitment for government service which provides equal opportunities for all persons regardless of ethnic origin."

- Report of the International Commission of Jurists, 1981.

"If terrorism is to be contained or eliminated, the legitimate expectations of the Tamil community must be met..."

- Report of the International Commission of Jurists, 1984.

Will the government of Sri Lanka agree that acts of 'terrorism' in the north of the country are not the cause of the present ethnic conflict, but the result of the failure of successive Sinhala governments to meet the legitimate expectations of the Tamil people and to treat them fairly and equally?

DEMAND FOR A 'SEPARATE STATE'

"Support for a separate Tamil State is a consequence of the perception by the Tamil community of discrimination against them, reinforced by extravagant counter measures against terrorism."

- Report of the International Commission of Jurists, 1984.

"The United National Party accepts the position that there are numerous problems confronting the Tamil speaking people. The lack of a solution to their problems has made the Tamil speaking people support even a movement for the creation of a separate state. In the interests of national integration and unity so necessary for the economic development of the whole country, the Party feels such problems should be solved without loss of time. The party, when it comes to power will take all possible steps to remedy their grievances in such fields as:

- (1) Education
- (2) Colonization
- (3) Use of Tamil Language
- (4) Employment in the Public and Semi-Public Corporations.

We shall summon an All-Party conference as stated earlier and implement its decisions.

The decisions of an All-Party Conference, which will be summoned to consider the problems of non-Sinhala speaking people will be included in the Constitution."

- *United National Party Election Manifesto, July 1977.*

Will the government concede that the demand for a separate state of Eelam by the Tamil people received popular support due to the 'lack of solution to their problems' identified in the UNP election manifesto?

TAMILS ARE A NATION

"The Tamils could be considered to be a 'people'. They have a distinct language, culture, a separate religious identity from the majority population, and to an extent, a defined territory... The application of the principle of self determination in concrete cases is difficult. It seems nevertheless that a credible argument can be made that the Tamil community in Sri Lanka is entitled to self determination. Self determination does not necessarily mean separation.... What is essential is that the political status of the 'people' should be freely determined by the 'people' themselves."

- *Report of the International Commission of Jurists, 1981 (Virginia Leary).*

"All peoples have the right of self determination. By virtue of the right they freely determine their political status and freely pursue their economic social and cultural development."

- *International Covenant on Civil and Political Rights, Article 1.*

Will the government recognise that Sri Lanka is a country with two nations, the Sinhala nation and the Tamil nation, and that the Tamil people are entitled to the right of self-determination?

SRI LANKA FOR SINHALA-BUDDHISTS ONLY?

"Sri Lanka is a Sinhala-Buddhist country although non-Sinhalese and non-Buddhists too have lived here for a long time."

- *Mr Cyril Mathew Minister of Industries and Scientific Affairs in 'Diabolical Conspiracy'.*

"Sri Lanka history is a Sinhala history and nothing else."

- *Mr. Cyril Mathew at the 29th Annual Conference of the United National Party, December, 1983.*

Does the government agree that Sri Lanka is a multi-ethnic country and all its people are entitled to be treated equally? Why does the government permit its Ministers to carry on racially biased and distorted propaganda claiming monopoly of power to the Sinhala-Buddhists?

DENIAL OF NATIONALITY, CITIZENSHIP ETC. TO ONE MILLION TAMILS

"(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality."

- *Article 15, Universal Declaration of Human Rights.*

"However, there is one community in Sri Lanka that has every justification for seeing itself as a grossly underprivileged minority, and that is the so-called "Indian" Tamils. The bulk of these continue to work on the tea estates, and by their labour make a vast contribution to the national income. Yet they continue to be miserably paid, miserably housed, and miserably deprived in the provision of food, health and education. For none of these deprivations do they have any remedy, since most of them cannot now even be represented in Parliament, or in local government: although virtually all of them today were born in Sri Lanka, the great

majority do not now even have Sri Lankan citizenship.

That extraordinary state of affairs came about as follows:

Immediately before Independence, these estate workers - like everyone else born either in India or in Ceylon - were British subjects, and therefore full citizens with a vote. The Soulbury Constitution of 1948 said nothing about citizenship, but shortly after it came into effect the newly-independent legislature enacted two laws.....In the result, out of approximately 825,000 "Indian" Tamils today, only around 150,000 are citizens of Sri Lanka, and so entitled to vote at elections. The rest are effectively stateless.

If one takes the view that all residents of Ceylon who were British subjects immediately before Independence became citizens of Ceylon on Independence, then these people were deprived of that citizenship through the enactment of the new law; if the status of citizen of Ceylon did not come into existence until that law was passed, then they were deliberately excluded from its automatic acquisition at that time. Whichever view one takes, the result today is a wholly arbitrary deprivation of the fundamental right to the citizenship of one's country for a group of people almost all of whom were born there, who have lived there all their lives, who have never been anywhere else and have no other allegiance, and who have made an immense contribution to that country's wealth while being themselves allotted only a derisory share to it."

- Report of the International Commission of Jurists, 1984.

"What a tragedy, foxes have holes, birds of the air have nests to rest in, but man has no place in this country to rest his head, because he is of Indian origin."

- Mr. K.W. Dewanayagam, Minister of Home Affairs, October 1983.

Will the government restore the fundamental rights of nationality, citizenship and franchise to all plantation Tamils without delay?

BANDARANAIKE-CHELVANAYAKAM PACT

"The time has come for the whole Sinhala race which has existed for 2500 years, jealously safeguarding their language and religion, to fight without giving any quarter to save their birthright.... I will lead the campaign....."

- J.R. Jayawardene in June 1957, arguing against the B-C Pact.

Was not the present President, Mr J.R. Jayawardene, one of those mainly responsible for the campaign that led to the unilateral abrogation of the Bandaranaike-Chelvanayakam Pact, which to this day remains the one and only serious attempt made to solve the ethnic conflict in Sri Lanka?

SINHALA GOVERNMENT AND SINHALA PRESIDENT?

"The Sinhala people are saying, I am not saying, that if it be war, let it be war, if it be peace, let it be peace...." which signalled the outbreak of ethnic violence in that year.

- J.R. Jayawardene in August 1977, in the Sri Lanka parliament.

"I am not worried about the opinion of the Tamil people....now we cannot think of them, not about their lives or their opinion...the more you put pressure in the north, the happier the Sinhala people will be here...Really, if I starve the Tamils out, the Sinhala people will be happy...."

- President Jayawardene, interviewed by the Daily Telegraph (London), July 11, 1983, only two weeks before the island-wide anti-Tamil violence.

"They (Tamils) are bringing an army from India. It will take 14 hours to come from India. In 14 minutes, the blood of every Tamil in the country can be sacrificed to the land by us."

"Who attacked you (Tamils)? Sinhalese. Who protected you? Sinhalese. It is we who can attack you and protect you."

- Mr. Gamini Disanayake, Minister of Lands and Land Development, September 5, 1983.

“The worst India can do is to invade us. If they invade us, that is the end of the Tamils in this country.”

- President Jayawardene, interviewed with India Today, 1984.

Do not such openly racist, hostile and threatening statements demonstrate that they are the President and Ministers of the Sinhala people only? And do not these statements show the extent of hostility they have for the Tamil people?

UNIVERSITY ADMISSIONS

“The Government should re examine its policies on university admissions with a view to basing admission on merit rather than on racial grounds. Tamil and Sinhalese young people alike will then have equal rights to university education on the basis of capacity rather than on race. One of the major points of tension among many Tamil youths has been the implicit racial quote under present university admission policies which has barred many competent youths from pursuing higher education.”

- Report of the international Commission of Jurists, 1981

“.....each successive change brought further gains for the Sinhalese....The application of the 1973 standardization system resulted in considerable gains for the Sinhalese and won support among several sections of this group. The share of the Sinhalese in places for Engineering courses shot up to 73.1% and that for medicine to 58.8%. The Tamil share in places for Engineering dropped precipitously to 24.4%

“The Sinhalese emerged as the main beneficiaries. Their share in admissions to science based courses rose to 75.4% in 1974 and to over 80% (estimate) in 1975. Since they have consistently had over 85% admissions to Arts-oriented studies for many years, their representation in all fields of study within the university rose to proportions well above their percentage of the population.”

- “Weightage in University Admissions: Standardization and District Quotas in Modern Ceylon” by Prof. C.R. de Silva.

Will the government of Sri Lanka secure that university admissions are based on merit rather than on discriminatory ethnic considerations?

EVICION OF TAMIL STUDENTS FROM THE UNIVERSITY

Tamil students of the University of Peradeniya were subjected to violence and forcibly evicted by armed gangs of Sinhalese in May 1983. A three member Commission (all Sinhalese) was appointed on May 18 to investigate and the Commissioners submitted the report of their findings on December 6, 1983. The findings included:

- (a) the violence against the Tamil students “did not erupt spontaneously but represented an organised campaign” whose features “all show careful planning”.
- (b) the purpose of the campaign “may be described as racist” and was meant “to evict Tamils from the campus. In complete defiance of authority and acting with blatant violence, the attackers succeeded in achieving their ends”.
- (c) “The attackers carried sticks, staves, iron rods, bicycle chains, belts, knives, arms and legs of university furniture and even a human humerus.”
- (d) “The following offences were committed: intimidation, disorderly conduct, unlawful assembly, stoning of halls, abuse, wilful damage to property, looting, forcible entry, incitement to violence, physical and psychological violence.”

Why has the government so far failed to publish the report? Why has it failed to take action against the people identified as responsible for the violence against the Tamil students. Is it not true that a certain Sinhalese student, named as a ring leader, has since been promoted as an Acting University Lecturer?

COLONISATION OF TAMIL AREAS

"In 1978 Tamil spokesmen complained that the momentum of colonisation was greater than ever. They referred in particular to the Mahaveli Diversion project, supported by the World bank, in the Eastern Province, under which Sinhalese families were being brought in from the South. They pointed out that the Maduruoya Scheme in the Eastern Province, backed by Canadian assistance, was having the same effect."

- *Minority Rights Group report, 1979 (Walter Schwarz).*

"The government should give renewed attention to Tamil concern over government sponsored colonisation schemes which bring large numbers of Sinhalese into Tamil areas and thus change the ethnic composition in such areas. This is particularly important in view of the insecurity of Tamils due to communal violence against them in areas where they are in a minority."

- *Report of the international Commission of jurists, 1981.*

Is it not true that the policy of state-aided colonisation of Tamil areas by Sinhalese settlers pursued by successive Sinhala governments has resulted in Tamils becoming a minority in certain parts of their traditional homelands of north and east of Sri Lanka?

Is it also not a fact that this racist and discriminatory policy has resulted in the creation of three new parliamentary constituencies within the last 15 years returning Sinhalese MPs and the Sinhala population in the Tamil Tricomalee district of only 5 per cent in 1948 has risen to 37 percent by 1981?

Will the government abandon this discriminatory state-aided colonisation policy?

SIXTH AMENDMENT TO THE CONSTITUTION

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

- *Article 19, Universal Declaration of Human Rights.*

"The freedom to express political opinions, to seek to persuade others of their merits, to seek to have them represented in Parliament, and thereafter to seek to persuade Parliament to give effect to them, are all fundamental to democracy itself. Those are precisely the freedoms which Article 25 of the International Covenant on Civil and Political Rights to recognises and guarantees - and in respect of advocacy for the establishment of an independent Tamil state in Sri Lanka, those which the Sixth Amendment (to the Sri Lankan Constitution) is designed to outlaw. **It therefore appears to me plain that this enactment constitutes a clear violation by Sri Lanka of its obligations in international law under the Covenant.**

- *Report of the International Commission of Jurists, 1984.*

Will the government of Sri Lanka repeal the Sixth Amendment to the Constitution and comply with the obligations under the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights?

BURNING OF JAFFNA, MAY-JUNE 1981

"Let me assure you, Sir, and the Members of this House that there is no doubt that there was a serious situation in Jaffna because of the police force was on the verge of virtual mutiny. On 2nd or 3rd, virtually 200 policemen had deserted their posts and they were responsible for some very serious events.... I am sorry for the violence that was perpetrated in the Jaffna Peninsula. I think we are all responsible for it."

- *Mr Gamini Disanayake, Minister of Lands, Land Development and Mahaveli Project, in Parliament in June 1981.*

"A primary concern of the government should be the physical security of the minority Tamil population and the avoidance of future communal violence so frequently directed against Tamils in the past...In this regard

the government should pursue a vigorous policy of investigation and prosecution of police officers responsible for the burning of many areas in Jaffna in May/June 1981.....”

- Report of the International Commission of Jurists, 1981 (Virginia Leary).

“It is regrettable that the government did not institute an independent investigation to establish responsibility for these killings (in May/June 1981) and take measures against those responsible. Instead, one police officer involved was promoted and emergency legislation was introduced facilitating further killings...”

- Orville H. Schell, Chairman, America's Watch Committee and Head of Amnesty International 1982 Mission to Sri Lanka, reported in New York Times of 24th August 1983.

Will the government of Sri Lanka agree that an independent and impartial inquiry should be held into the incidents of murder and arson in Tamil areas in May/June 1981 including the burning of the Jaffna public library?

Why has the government, even after three years, withheld the payment of Rs.8 million compensation for the reconstruction of the Jaffna Public Library as recommended by the Lionel Fernando Commission ?

ANTI-TAMIL VIOLENCE, JULY-AUGUST 1983

“The last outbreak of communal violence began on 24 July, 1983. For day after day Tamils (of both the ‘Sri Lankan’ and ‘Indian’ varieties) were beaten, hacked or burned to death in the streets, on buses, and on trains, not only in Colombo but in many other parts of the Island- sometimes in the sight of horrified foreign tourists. Their houses and shops were burned and looted. Yet the security forces seemed either unwilling or unable to stop it - indeed, in Jaffna and Tricomalee, some members of the armed forces themselves joined in the fray, claiming an admitted 51 lives. Seen from the Tamil point of view, either the Government had lost control of the situation, or it was deliberately standing by while they were being taught a lesson....

And not until the fifth day, on 28 July, did President jayawardene finally appear on television...

In the course of that address, the President did not see fit to utter one single word of sympathy for the victims of the violence and destruction which he lamented. If his concern was to re-establish communal harmony in the Island whose national unity he was so anxious to preserve by law, that was a misjudgement of monumental proportions.

“Clearly, this was not a spontaneous upsurge of communal hatred among the Sinhala people-nor was it, as has been suggested in some quarters, a popular response to the killing of 13 soldiers in an ambush by Tamil Tigers on the previous day, which was not even reported in the newspapers until after the riots began. It was a series of deliberate acts, executed in accordance with a concerted plan, conceived and organised well in advance. But who were the planners and organisers, responsible for what they began, and for all its foreseeable consequences in killings, maimings, and loss of property, necessarily followed by a major setback for Sri Lanka's economy?”

“But what I find most extraordinary is that to this day there has been no attempt to find out the truth through an official, public and impartial inquiry, when the situation in the country cries out for nothing less... so long as no such inquiry is appointed in Sri Lanka, rumours will continue to circulate, suspicion will point to many individuals and groups who cannot all be guilty, divisions between communities can only be exacerbated, and the Government's task in preserving order, peace and harmony can only be made more difficult.”

- Report of the International Commission of Jurists 1984.

“The Sri Lankan authorities....would leave no stone unturned to bring to justice all those responsible for killings, violence and acts of destruction no matter who they were and regardless of their status, ideology or political alignments. There would be no exceptions....”

- Mr. Jayakody, on behalf of the Sri Lankan government, before the Commission on Human Rights at Geneva, on 22nd August 1983.

“We all know who these people are. I am not naming them right now because I don't want to embarrass the President.....

How can any action be taken against them? They are important people. They are part of this government, just as I am. Behind all this are our own people. The racist elements. We all know them."

- *S. Thondaman, a Minister in the present cabinet, in an interview to 'Illustrated Weekly of India', 18.12.83.*

Will the government explain as to why the President or any of his Ministers did not condemn the violent atrocities or the perpetrators of those atrocities against the Tamil people in July-August 1983?

Is the failure on the part of the President to "utter one word of sympathy for the victims of the violence and destruction" due to the fact that he was "not worried.. about their lives or their opinion" (Daily Telegraph, July 11, 1983)?

As Commander-in-Chief of the Security forces, why has the President so far failed to take any action against those sections of the security forces which did not take any steps to stop the violence, or encouraged the violence or even actively participated in the violence against the Tamil people in July-August 1983?

Will the government of Sri Lanka agree to an independent and impartial inquiry into the allegation against the government that it had engaged in a conspiracy to commit murder, violence and thuggery in July-August 1983?

MASSACRE IN THE PRISON

"The first massacre in Welikade jail took place on 25 July, and claimed another 35 lives. The second - allegedly foreseen by the prison staff - came two days later, and claimed another 18".

- *Report of the International Commission of Jurists 1984.*

"Amnesty International notes that, according to press reports of 31 July 1983 (Weekend), the investigating magistrate returned a verdict of homicide and, as the prison officials were unable to identify any of the persons responsible for the killings, he directed the Officer in Charge of the Borella Police "to conduct further investigations and report the fact to the Magistrate's Court in Colombo and produce suspects, if any, before the Chief Magistrate of Colombo". The outcome of such investigations is not known.

While appreciating that magisterial inquiries were held immediately in both incidents, inquiries which clearly established the need for further investigations, Amnesty International remains concerned that no comprehensive inquiry with full powers to conduct an independent investigation and hear witnesses has been ordered to be conducted by the government. This is especially so in light of doubts which have been expressed as to how killings could take place without complicity of prison officials, especially since political detainees were reportedly held in a special security wing and since attacks were permitted to be repeated after an interval of one day, the prison officials admitting they anticipated an attempt of a second attack but stating before the magisterial inquiry that the Tamil prisoners "could not be moved in time to save them". Furthermore, the inquiry the magistrate held lasted only one day into each of the two incidents, without the magistrate being in a position to hear full evidence from the surviving detainees, still in fear of their lives, or their lawyers. One lawyer for the detainees has reportedly made complaints of inability to contact the prison authorities in order to obtain access to the inquest proceedings on the day the inquiry was held. Amnesty International has itself interviewed one Tamil detainee who survived the killing and has received a sworn statement from another survivor, both of whom state that some of the prisoners who had come to attack them later told the surviving detainees that they had been asked to kill Tamil prisoners. According to the sworn statement:

"We asked those people as to why they came to kill us. To this they replied that they were given arrack by the prison authorities and they were asked to kill all those at the youth offenders ward. When we asked them to reveal the name of the prison officer they refused to reply."

Amnesty International was furthermore told by one of the surviving detainees that, when the police came to Batticaloa prison - to which the surviving Tamil detainees had been transferred on 28 July - to inquire about the Welikada killings, he did not give evidence to the police inquiry out of fear that any statement which would allege complicity on the part of the prison staff might result in repercussions while he remained in

custody. These statements demonstrate, Amnesty International believes, the need for further investigations to be conducted by an independent body before which witnesses can testify in conditions of safety."

- Report of the Amnesty International, June 1984

Will the government agree to the setting up of an independent body to carry out an impartial inquiry into the killing of 53 Tamil political detainees held in one of its high-security prisons and to publish its findings?

TERRORISM ACT, AN UGLY BLOT

The South African Terrorism Act has been called 'a peice of legislation which must shock the conscience of a lawyer'. Many of the provisions of the Sri Lankan Prevention of Terrorism Act are equally contrary to accepted principles of the Rule of Law".

- Report of the International Commission of Jurists, 1981.

"The provisions of the Sri Lankan Terrorism Act are not only objectionable from a human rights point of view but it is doubtful that the Act is effective in controlling terrorism. The limitations on human rights, therefore, do not seem acceptable as a necessary means of maintaining public security."

- Report of the International Commission of Jurists, 1981.

"These provisions (in the prevention of Terrorism Act) are quite extraordinarily wide. No legislation conferring even remotely comparable powers is in force in any other free democracy operating under the Rule of Law, however troubled it may be by politically motivated violence. Indeed there is only one known precedent for the power to impose restriction orders under section 11 of the Sri Lankan P.T.A., and that as Professor Leary rightly pointed out in her Report - is the comparable legislation currently in force in South Africa.... such a provision is an ugly blot on the statue book of any civilised country..."

- Report of the International Commission of Jurists, 1984.

Will the Sri Lankan government repeal the Prevention of Terrorism Act?

TORTURE

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

- Article 7, International Covenant on Civil and Political Rights.

"No one shall be subjected to torture, or to cruel, inhuman or degrading treatment or punishment."

- Article 11, Constitution of Sri Lanka, 1978.

(a) In the case of S. Arumuganathan:

"The corpus had non grievous contusions on his buttocks and there is no doubt that these indicated that he had been beaten by a blunt weapon."

(b) In the case of C. Kulasegarasingham:

"There is no doubt, however, that violence had been used on him at the Elephant Pass Camp and we reject the denials of the custodians that he was not assaulted."

- Court of Appeal, Sri Lanka, September 10, 1981.

"The testimonies recorded by the Amnesty International mission indicate that people arrested under the Prevention of Terrorism Act were tortured in the following ways during the period under consideration, (June 1981 - January 1982):

- by being hung upside down and beaten;
- by prolonged and repeated beatings with heavy sticks, pipes and fists, especially on the soles of the feet

around the head and shoulders, on the stomach and back, so badly that in some cases bones were broken;

- by being stripped naked and beaten on the genitals;
- By having needles inserted under the nails of fingers and toes or in the arms;
- by having chili inserted into the sensitive parts of the body and being forced to drink heavily salted and chili-infused water until they vomited;
- by being burned with cigarettes and (in one case) having the public hair burned;
- by being forced to lie on the floor for as long as six months while being chained to the wall.

The reports of torture are consistent and largely similar to allegations received in previous years and described in, for example, the 1980 Amnesty International memorandum.”

- Report of the Amnesty International, 1982.

On the basis of mission delegates' interviews with released detainees, consultations with medical experts about torture allegations before and during the mission and the examination of affidavits received by the organisation in 1981 and 1982, Amnesty International has concluded that torture was used systematically by security forces in the north at least until the time of the 1982 Amnesty International mission. It was used to extract information or “confessions” from a particular category of people suspected of knowing about the activities of Tamil extremist groups, and was inflicted especially by the army in various army camps and by the police.”

- Amnesty International Report, 1982.

Will the government admit that torture is being used systematically against persons taken into custody or kept in detention, and therefore Sri Lanka has committed breaches under Article 7 of the International Covenant on Civil and Political Rights? Will it immediately take steps to abandon the practice of torture and institute criminal proceedings against those who practise it?

INCOMMUNICADO DETENTION

“Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.”

- Article 9, International Covenant on Civil and Political Rights.

“...The Government has repeatedly denied that its security forces violate fundamental rights. However, as head of an Amnesty International fact finding mission in January 1982, I received first hand evidence that incommunicado detention under the Prevention of Terrorism Act was widespread and that the army and the police regularly tortured political suspects and carried out political killings in June 1981, similar to those recently confirmed by President Jayawardene. I believe that recent killings by security authorities follow a pattern previously set...The government must bear full responsibility for these breaches of the right to life and other violations of human rights, especially in light of the wide powers in recent years it has given the security forces...”

- Orville H. Schell, former Chairman of New York City Bar Association and current Chairman of the America's Watch committee, in the New York Times, August 24, 1983.

“At the time of the mission, a minimum of 70 people were being detained under the Prevention of Terrorism Act without charge or trial, and arrests under the Act have continued to be reported since. It is difficult to give an exact figure for the number held at the time of writing as the government only occasionally publishes details of arrests and releases made under the Act and the families are not informed about relatives' arrest, whereabouts or release.

The men arrested in April and May 1981 under the Prevention of Terrorism Act were kept for a long while in communicado detention. At the time of the Amnesty International mission, more than eight months after their arrest, the men had been consistently refused any visits from their relatives. The government did not allow them access to their lawyers either for many months: four were allowed their first meeting with a lawyer - but only by order of the Court of Appeal - after more than three months had elapsed, one after five months and two after eight. The majority were not allowed to meet their lawyers for the first time until nine months after arrest. The list of detention conditions issued by the minister in charge of detainees under the Act specifies that:

"The suspect will not be permitted to have any visitors."

The 25 June 1981 Foreign Ministry statement gives the reasons why lawyers are denied access to those held under the Act- which is apparently official policy:

"If the Police are to conduct and complete their investigations successfully, it is important that these detenus should not have access to their lawyers and relatives for a certain minimum period during which time it is expected that the Police will be able to complete their investigations and obtain the necessary information to file cases in court. If the detenus are able to reach their lawyers and relatives during this period, they could interfere with the witnesses and evidence and thus prejudice the investigations."

This statement is in clear breach of Article 14 of the International Covenant on Civil and Political Rights- Guaranteeing detainees adequate facilities for defence, including the right to communicate with a lawyer."

- *Report of the Amnesty International, 1982.*

"A power to detain suspects for long periods without the opportunity for access by friends, family, or lawyers, or for regular judicial review, notoriously carries the danger that the detainees will be maltreated while in custody: it provides an open invitation for deprivation, assault, and worse - especially if the suspects may be detained by their interrogators in police stations or army camps, and more especially still if no real control is exercised over the periods for which they are detained. That point has been frequently and forcibly made about the Sri Lankan P.T.A. by the I.C.J., Amnesty International, and many others. Amnesty in particular has investigated and reported a number of well-documented allegations of the torture of detainees under the P.T.A., which the Sri Lankan Government has later denied in general terms. But so long as suspects can be held incommunicado for long periods by their interrogators, those allegations will continue to be made - and, the world being what it is, some of them will be well-founded, even if the use of violence in the course of interrogation is not official policy at the highest level. There were, for example, the cases in 1981 where the Sri Lankan Court of Appeal found as a fact that detainees had been assaulted. And there is the still unexplained death in army custody in April 1983 of K.T. Navaratnarajah, who was found by the investigating Magistrate to have died of numerous external and internal injuries inflicted by blows and weapons - though no one has to this day been charged with his murder, even though the Magistrate returned a verdict of homicide."

- *Report of the International Commission of Jurists, 1984.*

Will the government agree that incommunicado detention for prolonged periods is widely practised in Sri Lanka and this produces classical conditions for torture and other forms of maltreatment of prisoners? Will it comply with the obligations under Article 9 and 14 of the International Covenant on Civil and Political Rights?

EXTRAJUDICIAL KILLINGS, JULY-DECEMBER 1983

"As described in the **Amnesty International Statement updating its human rights concerns in Sri Lanka, July - September 1983**, the government, which in July 1983 maintained that it had no knowledge of such killings, stated during the first week of August that 20 civilians had been killed by "members of the armed forces on the rampage". In its letter to Amnesty International of 9 November 1983, the government revised its figure to 51. The Sri Lanka Government informed Amnesty International that:

“When, however, on the night of 23 July 13 Sinhalese soldiers were ambushed and killed by the terrorists in Jaffna, the pent up feelings of some of the soldiers got the better of their sense of discipline. A few soldiers acted on their own and 51 persons in Jaffna were killed.”

The government also stated:

“The Government does not condone the acts of these soldiers, I must stress that the commanding officers did all that was humanly possible to contain the situation.”

(Letter for the Sri Lanka High Commissioner,
London, 9 November 1983)

“Amnesty International notes with concern that the killing of civilians by members of the Sri Lanka armed forces was not condemned by the government; Amnesty International is furthermore gravely concerned that the government has apparently taken no effective measures to prevent further such arbitrary killings by, for example, ordering independent investigations into these killings, bringing to justice those responsible and unequivocally stating that such killings will no longer be tolerated. Whereas an inquest was reportedly held in October 1983 into the killings of the 13 soldiers on 23 July 1983, no inquest proceedings have been held, to Amnesty International’s knowledge, into any but one of the 51 killings the government has confirmed occurred in July 1983 at the hands of the armed forces, the government reportedly having waived inquest proceedings under the provisions of Emergency Regulation 15A, which still remains in force. Amnesty International is aware that in at least 21 of the 42 cases described in the document “Evidence of Extrajudicial Killings by the Security Forces in Sri Lanka, July - November 1983”, families of the victims have made statements to the police indicating the involvement of the armed forces in the killing. Nonetheless, Amnesty International is not aware that steps have been taken to identify those responsible for these killings and to bring them to justice.”

“Amnesty International has investigated and carefully assessed evidence obtained concerning the 51 killings by members of the security forces during 1983. In a separate document, “Evidence of Extrajudicial Killings by the Security Forces in Sri Lanka, July - November 1983”, Amnesty International presents details of 42 reports of the 51 killings by members of the armed forces on 24, 25, 26 and 27 July 1983. Also described are the testimonies of nine persons who were shot at by the army on 24 and 25 July, but who survived the shooting; six of them were seriously wounded, but survived after receiving hospital treatment. That document also describes the reports of six killings by members of the security forces Amnesty International has received during the latter part of 1983.”

- *Report of the Amnesty International, June 1984*

Will the government, as recommended by the the Amnesty International, (a) issue firm directives that extrajudicial killings by the security forces will not be tolerated; (b) order that impartial and independent investigation be held into all extrajudicial killings reported since 23 July 1983, and that it ensure that those against whom evidence is found of their guilt of such killings will be subject to normal criminal proceedings; and (c) grant compensation to the families of those killed by the security forces in July and subsequent months?

EXTRAJUDICIAL EXECUTIONS, MARCH-APRIL 1984

“Amnesty International has received several eye-witness accounts of the shootings on 28 March 1984 resulting in the death of eight persons at Chunnakam market and one at Mallakam. These accounts identify Air Force personnel getting down from a truck and a van who opened fire at random shooting into the crowded market at civilians.”

“Like on previous occasions, inquest proceedings were reportedly waived in all eight cases. The government’s refusal to permit inquests to be held can only enhance concerns that these were in fact unprovoked extrajudicial killings. This is especially so since, in spite of the government’s official version of the Chunnakam market incident, according to which those killed were shot dead by air force personnel in legitimate self-defence, the statements of eye-witnesses received by Amnesty International would appear to indicate on the contrary that the seven shot dead in Chunnakam market and the one man subsequently shot dead in a shop at Mallakam died as a result of deliberate random shooting by air force personnel.”

“Between 9 and 12 April 1984 a number of violent incidents took place in and around Jaffna and during

these days dozens of Tamils were killed by the security forces - estimates of the numbers killed and the circumstances in which they died varying widely even according to official sources."

"The Minister of National Security, Mr Lalith Athulathmudali, has put the total number of persons killed between 9 and 12 April at 32, stating that all were "terrorists". However, Amnesty International notes that another government official, the Government Agent for Jaffna, is quoted saying that "more than 50" people were killed and that "hardly any of those killed by the army were linked with the guerrilla campaign for more autonomy for the Tamil minority". He was also reported as saying that he spent more of his time trying to trace people missing or detained since last weeks' events. In the same press reports Mr L. Rajasingham, President of the Jaffna Citizens Committee, estimated the number of people killed to be 234, stating that most victims were bystanders killed in random shootings by soldiers after the attacks by Tamil extremists. The Secretary of the Ministry of Information, Douglas Liyanayage, in the same **Reuters** report dismissed the figure of 234, but also acknowledged that there could be innocent civilians among the dead. He was quoted as saying "I cannot tell you that every person killed was a terrorist".

"Amnesty International has the names of 30 persons killed between 9 and 12 April."

"It has been pointed out that identification of the dead and the circumstances in which persons were killed has become extremely difficult in view of the army reportedly burning the bodies of several people shot dead by them. According to one of the statements received by Amnesty International:

"My son....left home at about 7.30 am on 11.4.84 saying that he was going for tuition but has failed to return home so far....we made a search for him....My son's friends reported having seen my son in the Jaffna Town area on 11.4.84. Hence I visited all the spots where it was reported that dead bodies were lying. But the bodies were in such a state, some were partly burnt, some charred and faces disfigured that no identification could be made.."

"Amnesty International has received nine other statements from relatives of persons who left home between 9-12 April and who are still "missing", relatives stating they fear these persons were killed by the army, and their bodies burnt by them."

"Amnesty International has received reports that such burnings took place at Villoondi, Chemmani and Mandativu, most reports identifying the army as responsible for the burnings. However, two reports received by Amnesty International allege that at the Chemmani cemetery, the police burnt the bodies of people shot by the army. The father of one man, who had left home on 9 April, and who is still "missing", stated that he had been told so by the police themselves:

"Subsequently on Friday 13.4.84 I lodged an entry at the Jaffna Police Stations that my son...was missing. An officer in the police dept. told me that most of the bodies of persons shot by the army personnel on 9.4.84 were burnt by the police personnel at Chemmany cemetery...."

Amnesty International has attached to this document the pictures of two, as yet unidentified, bodies reportedly burnt by the army on 10 or 11 April 1984. Such burnings, impeding identification and investigations into the circumstances in which death occurred, can enhance concerns that these deaths were the result of extrajudicial killings by the security forces."

"By mid-May 1984, Amnesty International had not received a reply to this or any of its other communications sent to the Sri Lanka Government during 1984 expressing grave concern about allegations of extrajudicial killings in Sri Lanka. The extraordinary provisions of Emergency Regulation 15A, which only can facilitate further such killings, continue to remain in force."

Can the government deny that, despite the mass of evidence presented and serious concerns expressed by the delegates to the United Nations Human Rights Commission held in February 1984 and by independent bodies like the International Commission of Jurists and the Amnesty International, extrajudicial executions by the security forces are continuing? In view of the failure of the government to stop these unlawful killings and its continued refusal to order an impartial inquiry into such killings, can the government deny that these extrajudicial executions are being carried out with the government's knowledge and approval?

DISPOSAL OF DEAD BODIES WITHOUT INQUEST

"...an Emergency Regulation was promulgated on the 3rd of June 1983, authorising the police with the approval of the Secretary to the Ministry of Defence, to bury dead bodies in secret without any inquest or post mortem report. This extraordinary ordinance applies to the burying of any dead body, including persons who have died in custody...the promulgation of this Emergency Regulation 15A (shows) the Government's lack of respect for the rule of law..."

- *Report of the International Commission of Jurists, 1983*

"Emergency Regulation 15A, promulgated on 3 June 1983, authorizes the police, after obtaining the approval of the Secretary to the Ministry of Defence, to take measures "for taking possession and burial or cremation of any dead body", to dispose of bodies without relatives being present and to dispense with inquest proceedings normally required to be held.

"Amnesty International on several occasions in 1983 has urged the Sri Lanka Government to rescind this Emergency provision, stating its belief that Emergency Regulation 15A, and especially the suspension of inquest proceedings thereunder, could facilitate extrajudicial killings by the security forces."

"By permitting the disposal of dead bodies in secret and by suspending the requirement to hold inquests, the effect of Emergency Regulation 15A is to absolve members of the armed services from legal liability through prosecution in the courts for extrajudicial killings, such as the unprovoked killings of innocent civilians which occurred during 1983, and to create the impression that civilians can be killed by the security forces with impunity. The holding of inquest proceedings into deaths in custody is an important safeguard against extrajudicial killings and torture."

- *Reopert of the Amnesty International, June 1984*

"I share the view of every other international observer who has so far expressed **one on this subject that Emergency Regulation 15A is a dangerous and obnoxious measure** and I strongly recommend that it be revoked forthwith..."

- *Report of the International Commission of Jurists, 1984.*

Will the Government of Sri Lanka repeal Emergency Regulation 15A?

RULE OF LAW AND JUDUCIARY UNDERMINED

"It is regrettable that certain government and United National Party actions such as the actions and remarks of certain government and party members, the actions of security forces, the stripping of the civil rights of Mrs. Bandaranaike, the parliamentary vote of no confidence in the Leader of Tamil United Liberation Front as well as the adoption of the Anti Terrorism Act have undermined respect for the Rule of Law in Sri Lanka."

- *Report of the International Commission of Jurists, 1981*

"...the Government's lack of respect for the rule of law was evident in three cases in which a mantle of protection was thrown over officials who had exceeded or abused their powers. In the first case two soldiers who had been arrested and remanded in connection with the shooting of a lame Tamil youth were released by the Magistrate on the instructions of the Attorney General. In the other two cases, the Government promoted police officers against whom the Supreme Court had passed strictures for exceeding their authority. This was justified by the Government on the grounds that the police must be able to do their duty without fear of the consequences of adverse court decisions...In the face of this it is not surprising that the police and army increasingly take the law into their hands."

- *Report of the International Commission of Jurists, 1983.*

"During the campaign for the December 1982 referendum to extend the life of Parliament without a general election, a Superintendent of Police, Mr. P. Udagampola, seized 20,000 pamphlets of "Voices of the Clergy", opposing the referendum proposal. A Buddhist monk, the Secretary of the organisation concerned, complained to the Supreme Court, under Article 126 of the Constitution, that this act had infringed his

fundamental right to freedom of speech and expression. On 8 February 1983, the Supreme Court held in his favour, and awarded 10,000 rupees damages against the Superintendent personally, together with costs. On 2 March 1983, the Government announced that the Superintendent would be promoted, and that the State would pay the damages and costs.

That history soon repeated itself. On 8 March 1983, International Women's Day, a Mrs. Vivienne Goonewardene (a former MP), together with some others, went to deliver a letter of protest to the American Embassy in Colombo, where she was courteously received by a First Secretary who promised to forward it to the appropriate quarters. On their way back, some police officers took away their banners. Shortly after that, Mrs. Goonewardene heard that a press photographer who had taken pictures of this incident had been taken to the police station. She proceeded there to enquire after him, and soon after found herself under arrest, thrown to the floor, and kicked.

She too complained to the Supreme Court under Article 126 about an infringement of her fundamental rights.

In the event, it found that the arrest was unlawful, and directed the Inspector-General of Police to conduct further inquiries, and to take appropriate action in accordance with the law. That judgement was delivered on 8 June 1983. On the following day, the Acting Inspector-General of Police announced the promotion of the Sub-Inspector who arrested her.

"Two days after that two of the Judges of the Supreme Court who had heard this case found their private houses surrounded by unruly mobs, shouting obscenities at them. (The third judge had in fact moved house some time before, but his former residence was similarly invested.) It was a frightening experience, and no policeman was in sight. They tried to telephone the police, but found the lines mysteriously out of order.

"Although the Prime Minister issued a public statement on 15 June that the Inspector-General of Police was being instructed to undertake a rigorous investigation of these incidents in order that the matter might be appropriately and publicly resolved, no matter who was discovered to be the culprit, and although the mobs arrived in public service buses and the disorders had clearly been organised in a concerted fashion, no one seems to have managed to this day to unearth anyone responsible: apparently, the relevant records of the bus station concerned have somehow been lost.

"Such events are hardly calculated to encourage the judiciary to remain independent, or to enhance public respect for its members, their judgements, or the Rule of Law.

"The President freely conceded that he had personally ordered the promotion of the two police officers, and the payment out of public funds of the damages and costs. This he said had been necessary to maintain police morale... The conclusion is inescapable that he was deliberately seeking to teach the Judge a lesson, in order to make them more pliable to the Executive's wishes. If that is so, these were grossly improper acts; but for the immunity from all suit which the President enjoys under the Constitution, they might well have been criminal offences..."

"I find it a matter for regret that in this instance, the President has on the basis of his own admissions fallen well short of that high responsibility. What he did may be understandable, but it is not excusable."

- Report of the International Commission of Jurists, 1984.

Can the government of Sri Lanka deny that its actions and those of the President have undermined the Rule of Law, the integrity and independence of the Judiciary and encouraged the police security forces to engage in unlawful and violent acts?